

Chapter Six  
AIRPORT TALL STRUCTURE ZONING

1.00 PURPOSE. This Ordinance is adopted pursuant to the authority conferred by Chapter 329, 1985 Code of Iowa, as the same may be amended from time to time. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Davenport Municipal Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Davenport Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Davenport Municipal Airport and the public investment therein. Accordingly, it is declared:

- A. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Davenport Municipal Airport;
- B. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- C. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interest in land.

2.00 SHORT TITLE. This Ordinance shall be known and may be cited as the "Airport Height Zoning Ordinance of Eldridge, Iowa".

3.00 CONFLICTING REGULATIONS. As established by Chapter 329 of the Code of Iowa, 1985, entitled "Airport Zoning", as the same may be amended from time to time, in the event of any conflict between this Ordinance and any other regulation applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

4.00 DEFINITIONS. Unless otherwise expressly stated, or the context clearly indicates a different intention, the following terms shall, for the purposes of this Ordinance, have the meanings of this Ordinance. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular. The word "shall" is mandatory and the word "may" is permissive.

4.01 AIRPORT means the Davenport Municipal Airport, Davenport, Iowa, an area set aside for the landing and take-off of aircraft.

4.02 AIRPORT ELEVATION means the highest point of the Davenport Municipal Airport's usable landing area measured in feet above mean sea level; which elevation is established to be 753 feet.

4.03 AIRPORT HAZARD means any structure or tree or use of land which exceeds the limiting heights in this Ordinance.

4.04 AIRPORT HAZARD AREA means any area of land or water upon which an airport hazard might be established if not prevented by this Ordinance.

4.05 NONCONFORMING USE means any structure, tree or use of land existing on the effective date of this Ordinance which is inconsistent with this Ordinance.

4.06 PERSON means any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

4.07 PRIMARY SURFACE means an area longitudinally centered on a runway and extending 200 feet beyond each end of each runway. The width of the primary surface is 1,000 feet for Runway 15-33 and 500 feet for Runway 3-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The runway shall mean the future runway(s) as shown in the Davenport Airport Master Plan.

4.08 STRUCTURE means any object constructed or installed by man, including, but without limitation, mobile objects, buildings, tower, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.

4.09 TREE means any object of natural growth.

4.10 ZONE means a portion of the airport hazard area.

#### 5.00 ZONES AND HEIGHT LIMITATIONS.

5.01 There is hereby established an airport hazard area composed of the approach, conical, horizontal, and transitional zones, each having specific height limitations for structures and trees.

5.02 The boundaries of the airport hazard area and its zones are shown on the Davenport Municipal Airport Height Zoning Map which is made a part of this Ordinance. The map and all the notations, references and other information shown thereon are a part of this Ordinance and have the same force and effect as if the map and all the notations, references and other information shown thereon were all fully set forth or described in this Ordinance. The map shall be on file with Eldridge City Clerk.

## 5.03 The various zones are defined as follows:

- A. HORIZONTAL ZONE. The land lying under a horizontal surface. The Horizontal surface is 147 feet above the established airport elevation and the perimeter is constructed by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of Runways 15, 33, 3, and 21 and connecting the adjacent arcs by lines tangent to those arcs. No structure or tree shall exceed 147 feet above the established airport elevation in the horizontal zone, as depicted on the Davenport Municipal Airport Height Zoning Map.
- B. CONICAL ZONE. The land lying under a conical surface. The conical surface extends outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet. No structure or tree in the conical zone shall penetrate the conical surface, as depicted on the Davenport Municipal Airport Height Zoning Map.
- C. APPROACH ZONE. The land lying under an approach surface. The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from each end of the primary surface.
1. The inner edge of the Approach Surface is:
    - a. 500 ft. wide for Runways 3 and 21;
    - b. 1,000 ft. wide for Runways 15 and 33.
  2. The outer edge of the approach surface is:
    - a. 3,500 ft. wide for Runways 3, 21 and 33;
    - b. 16,000 ft. wide for Runway 15.
  3. The approach surface extends for a horizontal distance of:
    - a. 10,000 ft. at a slope of 34:1 for Runways 3, 21 and 33;
    - b. 10,000 ft. at a slope of 50:1 and then 40,000 ft. at a slope of 40:1 for Runway 15. No structure or tree in the approach zone shall penetrate the approach surface to any runway, as depicted on the Davenport Municipal Airport Height Zoning Map.
- D. TRANSITIONAL ZONE. The land lying under the transitional surface. The transitional surface extends outward and upward at right angles to the runway centerline and the runway centerline extended, at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. The transitional surface begins at the side of and at the same elevation as the approach surfaces and extends upward and outward to the conical surface at a slope of 7:1; or, if outside the conical surface, it extends upward and outward a

distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline. No structure or tree in the transitional zone shall penetrate the transitional surface, as depicted on the Davenport Municipal Airport Height Zoning Map.

5.04 An existing or proposed structure or tree located in more than one of the zones is considered to be only in the zone with the more restrictive height limitation.

5.05 EXCEPTED HEIGHT LIMITATIONS. Nothing contained in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.

5.06 Nothing contained in this Ordinance shall be construed as prohibiting the City of Eldridge or the Eldridge Electric and Water Utility Board from building, owning and operating a municipal water tower not to exceed a height of 200 feet above ground level.

#### 6.00 NONCONFORMING USES.

6.01 The Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any existing structure or tree, or to interfere with any existing use not conforming on the effective date of this Ordinance, except that no nonconforming use shall be allowed to become a greater airport hazard than it was on the effective date of this Ordinance.

6.02 Nothing contained in this Ordinance shall require any change in the construction or alteration of any structure, the construction or alteration of which was authorized by a permit dated prior to the effective date of this Ordinance and is diligently prosecuted.

6.03 The person owning any nonconforming structure or tree is hereby required to allow the installation, operation and maintenance thereon of markers and lights at the expense of the City of Davenport to indicate to the operators of aircraft the presence of airport hazards.

6.04 If a nonconforming structure has been torn down, damaged, or has physically deteriorated to the extent of more than sixty-five percent (65%) of its fair market value, as determined by the Board of Adjustment at the time of such damage, no permit shall be issued for its restoration except in conformity to this Ordinance.

#### 7.00 APPLICATIONS AND PERMITS.

7.01 STRUCTURES. An application for a building permit shall be made and a permit granted prior to the construction or locating of a new structure or the alteration of an existing structure within the airport hazard area. Applications shall indicate the purpose for which the permit is desired and have sufficient detail to determine if this Ordinance will be violated. No permit for a new structure or a change in an existing structure which would be inconsistent with this Ordinance shall be granted unless a variance has been obtained.

7.02 TREES. A permit shall not be required for trees. The lack of requirement for a permit for any trees shall not be construed as permitting or intending to permit the tree to eventually grow to a height inconsistent with this Ordinance. The owner of such a tree shall trim it as often as necessary in order to keep the tree from being in violation of this Ordinance and the trimming shall be done at the owner's expense.

8.00 ENFORCEMENT. It shall be the duty of the Eldridge Zoning Administrator to administer and enforce this Ordinance and to cooperate with the officials of neighboring municipalities in the review of any application for a variance submitted to the Airport Zoning Board of Adjustment. Applications for permits required by this Ordinance shall be promptly considered and granted or denied by a written decision.

9.00 VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use the property in violation of this Ordinance, and having been aggrieved or affected by any written decision of the Eldridge Zoning Administrator, may apply to the Airport Zoning Board of Adjustment for a variance in accordance with Chapter 329 of the Code of Iowa, 1985, as the same may be amended from time to time. Applying for a variance shall be done by filing a notice of appeal specifying the grounds thereof. The notice of appeal shall be filed with the Eldridge Zoning Administrator within thirty (30) calendar days after receipt of the written decision. Upon receipt of a notice of appeal, the Eldridge Zoning Administrator shall immediately transmit to the Chairman of the Airport Zoning Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. The chairman shall then set a meeting date for the Airport Zoning Board of Adjustment. The meeting date shall be within 45 calendar days of the date of the Notice of Appeal. Determinations from the Federal Aviation Administration and the Davenport Airport Manager, as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of air space should be obtained. If such determinations are not available for the Airport Zoning Board of Adjustment meeting, the discussion of the appeal may be extended to a later date when the determinations are available, or a decision may be made without those determinations.

Any such variance granted may be subject to reasonable conditions, including, but not limited to, the right of the City of Davenport to install, operate and maintain at City of Davenport expense such markers and lights thereon as may be necessary to indicate to the operators of aircraft the presence of a hazard.

#### 10.00 AIRPORT ZONING BOARD OF ADJUSTMENT.

10.01 There is hereby created an Airport Zoning Board of Adjustment with the duties and powers, as provided by Chapter 329 of the Code of Iowa, 1985, as the same may be amended from time to time.

10.02 The Airport Zoning Board of Adjustment shall consist of seven (7) members: two (2) residents of Davenport appointed by the Davenport City Council; two (2) residents of Eldridge appointed by the Eldridge City Council; two (2) residents of the unincorporated area appointed by the Scott County Board of Supervisors; and one (1) selected by the

concurring vote of at least four (4) members of the members appointed to the Airport Zoning Board of Adjustment, who shall act as Chairman.

The terms of the members of the Airport Zoning Board of Adjustment shall be five (5) years, except that when the Airport Zoning Board of Adjustment is first created, one of the members appointed by Davenport, Eldridge, and Scott County shall be appointed for a term of two (2) years and one for a term of four (4) years. Members shall be removable for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected.

10.03 The Airport Zoning Board of Adjustment shall adopt rules to govern its meetings. Such rules shall be in addition to, but not in conflict with, those in Chapters 414.9 and 358.12 of the Code of Iowa, 1985, as the same may be amended from time to time; and such rules shall not be in conflict with this Ordinance.

10.04 The concurring vote of four (4) members of the Airport Zoning Board of Adjustment shall be necessary to reverse or affirm, wholly or in part, or to modify any order, requirement, decision, or determination appealed from.

#### 11.00 PENALTY.

##### 11.01 SPECIFIC ACTIONS.

A. MISDEMEANOR - SINGLE OFFENSE. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred (\$100.00) dollars for each offense or imprisoned in the county jail for a period not exceeding thirty (30) days. Each separate provision of this Ordinance violated shall constitute a separate offense.

B. MISDEMEANOR - MULTIPLE OFFENSES. Each day that the violation is permitted to exist after notification in writing by the Eldridge Zoning Administrator and the expiration of the time designated for correction in the aforesaid notification shall constitute a separate offense.

No person shall be deemed guilty of multiple offenses of this Ordinance until receipt of the aforesaid notice and expiration of the time designated therein; however, receipt of such notice is not a prerequisite to prosecution for single offenses as set forth above.

C. CIVIL ACTIONS. In case any structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or tree grown in violation of this Ordinance or any regulation made under authority conferred hereby, the Eldridge Zoning Administrator, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful act or to restrain, correct, or abate such violation,

including, but not limited to, denying the occupancy of said structure and trimming or removing any tree.

11.02 NUISANCE ABATEMENT. Any structure erected, raised, converted or tree grown in violation of any of the provisions of this Ordinance or the requirements thereof, is declared to be a common nuisance and such common nuisance may be abated in such manner as nuisances are now or may hereafter be abated under existing law.